

1           **LEW BRANDON, JR., ESQ.**  
2           Nevada Bar No. 5880  
3           **ANDREW GUZIK, ESQ.**  
4           Nevada Bar No. 12758  
5           **HOMERO GONZALEZ, ESQ.**  
6           Nevada Bar No. 15231  
7           **BRANDON | SMERBER LAW FIRM**  
8           139 E. Warm Springs Road  
9           Las Vegas, Nevada 89119  
10          (702) 380-0007  
11          (702) 380-2964 – *facsimile*  
12          [\*l.brandon@bsnv.law\*](mailto:l.brandon@bsnv.law)  
13          [\*a.guzik@bsnv.law\*](mailto:a.guzik@bsnv.law)  
14          [\*h.gonzalez@bsnv.law\*](mailto:h.gonzalez@bsnv.law)  
15          *Attorneys for Defendant,*  
16          *99 CENTS ONLY STORES, LLC*

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

ELVIA WILLIAMS, an individual,

CASE NO.: 2:22-cv-139

Plaintiff,

VS.

99 CENTS ONLY STORES, LLC.; DOES 1 through 100; and ROE CORPORATION 101 through 200, inclusive,

## Defendants.

**DEFENDANT, 99 CENTS ONLY STORES, LLC'S NOTICE OF REMOVAL OF  
ACTION TO UNITED STATES DISTRICT COURT UNDER 28 USC § 1441(a)**

Defendant, 99 CENTS ONLY STORES, LLC, by its undersigned attorney, LEW BRANDON, JR., ESQ., ANDREW GUZIK, ESQ., and HOMERO GONZALEZ, of BRANDON | SMERBER LAW FIRM, hereby removes the above-captioned case to the United States District Court, Clark County, Nevada, where the action is now pending, pursuant to 28 USC § 1441(a) and states as follows:

1       1. The above-entitled action was commenced in the Eighth Judicial District Court,  
2 Clark County, State of Nevada on December 17, 2021, bearing Case No. A-21-845580-C. The  
3 action is now pending in the Eighth Judicial District Court, Clark County, State of Nevada.  
4

5       2. Plaintiff filed her initial complaint on or about December 17, 2021. Plaintiff's  
6 Complaint fails to state that this case is one which is or has become removable. *See Harris v.*  
7 *Bankers Life & Cas. Co.*, 425 F.3d 689 (9th Cir. 2005). Defendant, 99 Cents Only Stores, LLC.,  
8 filed an Answer to the initial complaint on January 6, 2022.

9       3. On January 25, 2022, Plaintiff served upon Defendant, 99 Cents Only Stores,  
10 LLC, her Petition for Exemption from Arbitration, wherein Plaintiff alleges that she sustained  
11 general damages of approximately One Hundred Ninety-Three Thousand Four Hundred Fourteen  
12 Thousand Dollars & 00/100 (\$193,414.00) with residual pain to her back that radiated down her  
13 tailbone and legs. This Notice of Removal was filed timely as it was filed within thirty (30) days  
14 of service of the Petition for Exemption from Arbitration served upon 99 Cents Only Stores, LLC,  
15 which was the first motion, order or other paper from which it could first be ascertained that this  
16 case is one which is or has become removable. *See* 28 U.S.C. 1446(b); *Harris*, 425 F.3d 689.  
17

18       4. Pursuant to Fed. R. Civ. P. 6 (a), the last day of the thirty (30) day period set forth  
19 under 28 U.S.C. 1446(b) is February 24, 2022. *See* 28 U.S.C. 1446(b); *Harris v. Bankers Life &*  
20 *Cas. Co.*, 425 F.3d 689 (9th Cir. 2005).

21       5. This action concerns an allegation that the Defendant failed to design, construct,  
22 control, supervise, repair and/or maintain the property in a reasonable and safe manner, causing  
23 injury to Plaintiff.  
24

25       6. At the commencement of this action and at the time of the filing of this Notice of  
26 Removal, Plaintiff, ELVIA WILLIAMS was, and now is, a citizen of the State of Nevada.  
27

139 E. WARM SPRINGS RD.  
LAS VEGAS, NEVADA 89119  
T. 702.380.0007 | F. 702.380.2964

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LAW FIRM

1       7.       At the commencement of this action and at all times herein, Defendant, 99  
2 CENTS ONLY STORES, LLC, was, and now is, a limited liability company duly organized and  
3 existing under the laws of the State of California with its principal place of business in California,  
4 and therefore, is a citizen of the State of California.  
5

6       8.       Upon information and belief, Plaintiff, ELVIA WILLIAMS' general damages  
7 and unknown future medical specials are approximately One Hundred Ninety-Three Thousand  
8 Four Hundred Fourteen Thousand Dollars & 00/100 (\$193,414.00) with residual pain to her back  
9 that radiated down her tailbone and legs. As a result, the amount in controversy exceeds Seventy-  
10 Five Thousand Dollars (\$75,000.00).  
11

12       9.       The United States District Court for the District of Nevada has original  
13 jurisdiction pursuant to 28 U.S.C. § 1332 in that the parties are citizens of different States and the  
14 amount in controversy exceeds the sum or value of Seventy-Five Thousand Dollars (\$75,000.00)  
15 exclusive of interests and costs.  
16

17       10.      Accordingly, Plaintiff's Complaint is removed pursuant to 28 U.S.C. 1441, which  
18 provides that a Defendant may remove a case over which the federal court has original  
19 jurisdiction.  
20

21       11.      A copy of all process and pleadings served upon the Defendant is attached hereto  
22 as Exhibit "1."  
23

24       WHEREFORE, Defendant, 99 CENTS ONLY STORES, LLC, a California limited  
25 liability company respectfully requests that this action proceed in this Court as an action properly  
26            ///  
27            ///  
28            ///

1 removed to it.

2 DATED this 26<sup>th</sup> day of January, 2022.

3 **BRANDON | SMERBER LAW FIRM**

4  
5 /s/ Lew Brandon, Jr., Esq.  
LEW BRANDON, JR., ESQ.

6 Nevada Bar No. 5880  
7 **ANDREW GUZIK, ESQ.**  
8 Nevada Bar No. 12758  
9 **HOMERO GONZALEZ, ESQ.**  
10 Nevada Bar No. 15231  
11 139 East Warm Springs Road  
12 Las Vegas, Nevada 89119  
*Attorneys for Defendant,*  
**99 CENTS ONLY STORES, LLC**

13 **CERTIFICATE OF SERVICE**

14 Pursuant to NRCP 5(b), I hereby certify that on January 26, 2022, I served the foregoing  
15 **DEFENDANT, 99 CENTS STORE ONLY, LLC' S NOTICE OF REMOVAL OF ACTION**  
16 **TO UNITED STATES DISTRICT COURT UNDER 28 USC § 1441(a)** via the Court's  
17 electronic filing and service systems to all parties on the current service list.

18 **SCOTT L. POISSON, ESQ.**  
19 Nevada Bar No. 10188  
20 **AMBER N. KING, ESQ.**  
21 Nevada Bar No. 14070  
22 **BERNSTEIN & POISSON**  
23 700 S. Jones Blvd.  
24 Las Vegas, Nevada 89107  
(702) 877-4878  
25 Facsimile: (702) 256-6280  
[scott@vegashurt.com](mailto:scott@vegashurt.com)  
[amber@vegashurt.com](mailto:amber@vegashurt.com)  
*Attorneys for Plaintiff,*  
**ELVIA WILLIAMS**

26 /s/ Bonita Alexander  
27 An Employee of BRANDON | SMERBER LAW FIRM  
28